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H.R.321

SCHIP Plus Act of 2009 (Introduced in House)  
HR 321 IH

111th CONGRESS  
1st Session  
H. R. 321

To amend title XXI of the Social Security Act to expand coverage options under the State Children's Health Insurance Program (SCHIP) through premium assistance.

IN THE HOUSE OF REPRESENTATIVES

January 8, 2009

Mr. FORTENBERRY (for himself, Mr. BURGESS, Mr. SESSIONS, Mr. TERRY, Mr. PRICE of Georgia, and Mr. SHADEGG) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXI of the Social Security Act to expand coverage options under the State Children's Health Insurance Program (SCHIP) through premium assistance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  
SECTION 1. SHORT TITLE.

This Act may be cited as the `SCHIP Plus Act of 2009'.

SEC. 2. EXPANDING COVERAGE OPTIONS IN SCHIP THROUGH PREMIUM ASSISTANCE.

(a) Requiring Offering of Alternative Coverage Options- Section 2102 of the Social Security Act (42 U.S.C. 1397b) is amended--

(1) in subsection (a)--

(A) in paragraph (6), by striking `and' at the end;

(B) in paragraph (7), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following new paragraph:

`(8) effective for plan years beginning on or after October 1, 2010, how the plan will provide for

child health assistance with respect to applicable targeted low-income children through alternative coverage options in accordance with subsection (d).'; and

(2) by adding at the end the following new subsection:

`(d) Alternative Coverage Options-

`(1) IN GENERAL- Effective October 1, 2010, a State child health plan shall provide for the offering of any qualified alternative coverage that a qualified entity seeks to offer to applicable targeted low-income children through the plan in the State.

`(2) APPLICATION OF UNIFORM FINANCIAL LIMITATION FOR ALL ALTERNATIVE COVERAGE OPTIONS- With respect to all qualified alternative coverage offered in a State, the State child health plan shall establish a uniform dollar limitation on the per capita monthly amount that will be paid by the State to the qualified entity with respect to such coverage provided to a targeted low-income child. Such limitation may not be less than 90 percent of the per capita monthly payment made for coverage offered under the State child health plan that is not in the form of an alternative coverage option. Nothing in this paragraph shall be construed--

`(A) as requiring a State to provide for the full payment of premiums for qualified alternative coverage;

`(B) as preventing a State from charging additional premiums to cover the difference between the cost of qualified alternative coverage and the amount of such payment limitation;

`(C) as preventing a State from using its own funds to provide a dollar limitation that exceeds the Federal financial participation as limited under section 2105(c)(8).

`(3) QUALIFIED ALTERNATIVE COVERAGE DEFINED- In this section, the term `qualified alternative coverage' means health insurance coverage that--

`(A) meets the coverage requirements of section 2103 (other than cost-sharing requirements of such section); and

`(B) is offered by a qualified insurer, and not directly by the State.

`(4) QUALIFIED INSURER DEFINED- In this section, the term `qualified insurer' means, with respect to a State, an entity that is licensed to offer health insurance coverage in the State.

`(5) APPLICABLE TARGETED LOW-INCOME CHILDREN DEFINED- In this title, the term `applicable targeted low-income children' means targeted low-income children with family income that does not exceed 200 percent of the poverty line applicable to family of the size involved.'

(b) Federal Financial Participation for Qualified Alternative Coverage- Section 2105 of such Act (42 U.S.C. 1397d) is amended--

(1) in subsection (a)(1)(C), by inserting before the semicolon at the end the following: `and, subject to paragraph (8)(C), in the form of payment of the premiums for coverage for qualified alternative coverage'; and

(2) by adding at the end of subsection (c) the following new paragraph:

`(8) PURCHASE OF QUALIFIED ALTERNATIVE COVERAGE-

`(A) IN GENERAL- Payment may be made to a State under subsection (a)(1)(C), subject to the provisions of this paragraph, for the purchase of qualified alternative coverage for applicable targeted low-income children.

`(B) WAIVER OF CERTAIN PROVISIONS- With respect to coverage described in subparagraph (A), no limitation on beneficiary cost-sharing otherwise applicable under this title or title XIX shall apply.

`(C) LIMITATION ON FFP- The amount of the payment under paragraph (1)(C) for coverage described in subparagraph (A) during a fiscal year in the aggregate for all such coverage in the

State may not exceed the product of--

- `(i) the national per capita expenditure under this title (taking into account both Federal and State expenditures) for the previous fiscal year (as determined by the Secretary using the best available data);

- `(ii) the enhanced FMAP for the State and fiscal year involved; and

- `(iii) the number of targeted low-income children for whom such coverage is provided.

- `(D) VOLUNTARY ENROLLMENT- A State child health plan--

- `(i) may not require a targeted low-income child to enroll in coverage described in subparagraph (A) in order to obtain child health assistance under this title;

- `(ii) before providing such child health assistance for such coverage of a child, shall make available (which may be through an Internet website or other means) to the parent or guardian of the child information on the coverage available under this title, including benefits and cost-sharing; and

- `(iii) shall--

- `(I) provide at least one opportunity per fiscal year for beneficiaries to switch coverage under this title from coverage described in subparagraph (A) to the coverage that is otherwise made available under this title; and

- `(II) permit beneficiaries to switch such coverage under such other circumstances, such as the change in employment, birth of a child, or change in households, as the Secretary specifies.

- `(E) INFORMATION ON COVERAGE OPTIONS- A State child health plan shall--

- `(i) describe how the State will notify potential beneficiaries of coverage described in subparagraph (A);

- `(ii) provide such notification in writing at least during the initial application for enrollment under this title and during redeterminations of eligibility if the individual was enrolled before October 1, 2010; and

- `(iii) post a description of these coverage options on any official website that may be established by the State in connection with the plan.

- `(F) RULE OF CONSTRUCTION- Nothing in this section is to be construed to prohibit a State from--

- `(i) establishing limits on beneficiary cost-sharing under such alternative coverage;

- `(ii) paying all or part of a beneficiary's cost-sharing requirements under such coverage;

- `(iii) paying less than the full cost of a child's share of the premium under such coverage, insofar as the premium for such coverage exceeds the limitation established by the State under subparagraph (C);

- `(iv) using State funds to pay for benefits above the Federal upper limit established under subparagraph (C); or

- `(v) providing any guidance or information it deems appropriate in order to help beneficiaries make an informed decision regarding the option to enroll in coverage described in subparagraph (A).'

### SEC. 3. EASING ADMINISTRATIVE BARRIERS TO STATE COOPERATION WITH EMPLOYER-SPONSORED INSURANCE COVERAGE.

(a) Requiring Some Coverage for Employer-Sponsored Insurance-

(1) IN GENERAL- Section 2102(a) of the Social Security Act (42 U.S.C. 1397b(a)), as amended by section 2(a), is amended--

(A) in paragraph (7), by striking `and' at the end;

(B) in paragraph (8), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following new paragraph:

`(9) effective for plan years beginning on or after October 1, 2010, how the plan will provide for child health assistance with respect to targeted low-income children covered under a group health plan.'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply beginning with fiscal year 2011.

(b) Federal Financial Participation for Employer-Sponsored Insurance- Section 2105 of such Act (42 U.S.C. 1397d) is amended--

(1) in subsection (a)(1)(C), as amended by section 3(b), by inserting before the semicolon at the end the following: `and, subject to paragraph (3)(C), in the form of payment of the premiums for coverage under a group health plan that includes coverage of targeted low-income children and benefits supplemental to such coverage'; and

(2) paragraph (3) of subsection (c) is amended to read as follows:

`(3) PURCHASE OF EMPLOYER-SPONSORED INSURANCE-

`(A) IN GENERAL- Payment may be made to a State under subsection (a)(1)(C), subject to the provisions of this paragraph, for the purchase of family coverage under a group health plan that includes coverage of targeted low-income children unless such coverage would otherwise substitute for coverage that would be provided to such children but for the purchase of family coverage.

`(B) WAIVER OF CERTAIN PROVISIONS- With respect to coverage described in subparagraph (A)--

`(i) notwithstanding section 2102, no minimum benefits requirement (other than those otherwise applicable with respect to services referred to in section 2102(a)(7)) under this title shall apply; and

`(ii) no limitation on beneficiary cost-sharing otherwise applicable under this title or title XIX shall apply.

`(C) REQUIRED PROVISION OF SUPPLEMENTAL BENEFITS- If the coverage described in subparagraph (A) does not provide coverage for the services referred to in section 2102(a)(7), the State child health plan shall provide coverage of such services as supplemental benefits.

`(D) LIMITATION ON FFP- The amount of the payment under paragraph (1)(C) for coverage described in subparagraph (A) (and supplemental benefits under subparagraph (C) for individuals so covered) during a fiscal year may not exceed the product of--

`(i) the national per capita expenditure under this title (taking into account both Federal and State expenditures) for the previous fiscal year (as determined by the Secretary using the best available data);

`(ii) the enhanced FMAP for the State and fiscal year involved; and

`(iii) the number of targeted low-income children for whom such coverage is provided.

`(E) VOLUNTARY ENROLLMENT- A State child health plan--

`(i) may not require a targeted low-income child to enroll in coverage described in subparagraph (A) in order to obtain child health assistance under this title;

`(ii) before providing such child health assistance for such coverage of a child, shall make available (which may be through an Internet website or other means) to the parent or guardian of the child information on the coverage available under this title, including benefits and cost-sharing; and

`(iii) shall--

`(I) provide at least one opportunity per fiscal year for beneficiaries to switch coverage under this title from coverage described in subparagraph (A) to the coverage that is otherwise made available under this title; and

`(II) permit beneficiaries to switch such coverage under such other circumstances, such as the change in employment, birth of a child, or change in households, as the Secretary specifies.

`(F) INFORMATION ON COVERAGE OPTIONS- A State child health plan shall--

`(i) describe how the State will notify potential beneficiaries of coverage described in subparagraph (A);

`(ii) provide such notification in writing at least during the initial application for enrollment under this title and during redeterminations of eligibility if the individual was enrolled before October 1, 2010; and

`(iii) post a description of these coverage options on any official website that may be established by the State in connection with the plan.

`(G) SEMIANNUAL VERIFICATION OF COVERAGE- If coverage described in subparagraph (A) is provided under a group health plan with respect to a targeted low-income child, the State child health plan shall provide for the collection, at least once every six months, of proof from the plan that the child is enrolled in such coverage.

`(H) RULE OF CONSTRUCTION- Nothing in this section is to be construed to prohibit a State from--

`(i) offering wrap around benefits in order for a group health plan to meet any State-established minimum benefit requirements;

`(ii) establishing a cost-effectiveness test to qualify for coverage under such a plan;

`(iii) establishing limits on beneficiary cost-sharing under such a plan;

`(iv) paying all or part of a beneficiary's cost-sharing requirements under such a plan;

`(v) paying less than the full cost of the employee's share of the premium under such a plan, including prorating the cost of the premium to pay for only what the State determines is the portion of the premium that covers targeted low-income children;

`(vi) using State funds to pay for benefits above the Federal upper limit established under subparagraph (C);

`(vii) allowing beneficiaries enrolled in group health plans from changing plans to another coverage option available under this title at any time; or

`(viii) providing any guidance or information it deems appropriate in order to help beneficiaries make an informed decision regarding the option to enroll in coverage described in subparagraph (A).

`(I) GROUP HEALTH PLAN DEFINED- In this paragraph, the term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg-91(a)(1)).'

#### SEC. 4. EMPLOYEE NOTIFICATION OF PREMIUM ASSISTANCE OPPORTUNITIES.

(a) Amendment to Internal Revenue Code of 1986- Section 9801(f) of the Internal Revenue Code of 1986 (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

`(3) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF SCHIP COVERAGE-

`(A) IN GENERAL- Each employer that maintains a group health plan in a State that provides child health assistance under a State child health plan under title XXI of the Social Security Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall

provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)).

`(B) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE- An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).'

(b) Conforming Amendments-

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT-

(A) IN GENERAL- Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

`(3) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF SCHIP COVERAGE-

`(A) IN GENERAL- Each employer that maintains a group health plan in a State that provides child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

`(B) MODEL NOTICE- Not later than 1 year after the date of enactment of this paragraph, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State SCHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

`(C) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE- An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b).'

(B) CONFORMING AMENDMENT- Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended--

(i) by striking 'and the remedies' and inserting ', the remedies'; and

(ii) by inserting before the period the following: ', and if the employer so elects for purposes of complying with section 701(f)(3)(B)(i), the model notice applicable to the State in which the participants and beneficiaries reside'.

(C) EFFECTIVE DATES- The Secretary of Labor and the Secretary of Health and Human

Services shall develop the initial model notices under section 701(f)(3)(B) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued.

(2) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT- Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following new paragraph:

“(3) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF SCHIP COVERAGE-

“(A) IN GENERAL- Each employer that maintains a group health plan in a State that provides child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)).

“(B) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE- An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.’.

